IREKA ENGINEERING & CONSTRUCTION SDN BHD v. PWC CORPORATION SDN BHD & ANOTHER APPEAL

COURT OF APPEAL, PUTRAJAYA
MOHD ZAWAWI SALLEH JCA
VERNON ONG LAM KIAT JCA
HASNAH MOHAMMED HASHIM JCA
[CIVIL APPEALS NO: W-02(C)(A)-1982-10-2017
& W-02(C)(A)-1983-10-2017]
29 MAY 2019

CONSTRUCTION LAW: *Adjudication – Adjudication decision – Appeal against – Subcontractor claimed for unpaid balance sum for works done – Main contractor submitted that balance sum was set-off – Subcontractor commenced adjudication proceedings – Adjudicator ordered main contractor to pay balance sum – Whether adjudicator considered main contractor's submission on set-off – Whether there was breach of natural justice – Whether main contractor accorded fair hearing – Whether there was deprivation of right to be heard – Construction Industry Payment and Adjudication Act 2012, s. 6(1)*

CONSTRUCTION LAW: *Jurisdiction – Adjudicator – Claim against main contractor – Subcontractor commenced adjudication proceedings for unpaid balance sum for works done – Whether there was dispute warranting adjudication – Whether amount of balance sum disputed – Whether adjudicator seized with jurisdiction to adjudicate on matter – Construction Industry Payment and Adjudication Act 2012, s. 6(1)*

CIVIL PROCEDURE: *Setting aside – Application for – Application to set aside adjudication decision – Subcontractor commenced adjudication proceedings against main contractor – Claim for unpaid balance sum for works done – Adjudicator ordered main contractor to pay balance sum – Whether adjudicator seized with jurisdiction to adjudicate on matter – Whether adjudicator properly considered submissions – Whether adjudication decision ought to be set aside*

The appellant, the main contractor, had appointed the respondent as the subcontractor for a development project. The subcontract works were completed but there was an unpaid balance of RM134,869.25 ('balance sum') for works done, prompting the respondent to serve a payment claim to the appellant for the balance sum. In response, the appellant stated that it raised a set-off for the sum of RM3,740,790 from two projects ('set-offs'). The respondent commenced adjudication proceedings and served a notice of adjudication to the appellant. In its adjudication response, the appellant contended that the adjudicator was not seized with the jurisdiction to adjudicate on the matter as the amount claimed by the respondent was not disputed. The adjudicator ordered the appellant to pay the balance sum to the respondent ('adjudicator's decision'). The respondent filed originating summons ('OS1'), at the High Court, to enforce the adjudicator's decision while the appellant filed originating summons ('OS2') to set aside the same.

The High Court allowed OS1 and dismissed OS2. Hence, the present appeals by the appellant against the High Court's decision (i) allowing the respondent's application to enforce the adjudicator's decision; and (ii) dismissing the appellant's application to set aside the adjudicator's decision. The issues that arose for determination were (i) whether the adjudicator acted in excess of his jurisdiction by acting on an undisputed matter; and (ii) whether the adjudicator was in breach of the rules of natural justice, by refusing to consider the set-offs, which was tantamount to depriving the appellant of its right to be heard and to a fair hearing.

Held (dismissing appeals)

Per Vernon Ong Lam Kiat JCA delivering the judgment of the court:

(1) The fact that the balance sum was not disputed was a non-starter as (i) the proceedings were governed by the Construction Industry Payment and Adjudication Act 2012 ('CIPAA'); (ii) s. 6(1) of the CIPAA stipulates that if the appellant, as the non-paying party, admits to the payment claim, the appellant is required to serve a payment response to the respondent, the unpaid party, together with the whole undisputed balance sum; and (iii) as the appellant failed to respond to the respondent's payment claim, in accordance with s. 6(1) of the CIPAA, the appellant was deemed to have disputed the entire payment claim. Even though the balance sum was not disputed, the undeniable fact was that the appellant failed to pay the same. The appellant's failure prompted the respondent to issue the payment claim, demanding for the balance sum. Instead of making payment of the balance sum together with their payment response, the appellant withheld payment, citing the set-offs on matters unrelated to the adjudication. In these circumstances, a dispute was deemed, in law and in fact, to have arisen under the CIPAA. It was clearly untenable for the appellant to argue that there was no jurisdiction to adjudicate on the ground that there was no dispute. There was no merit in the appellant's argument on the want of jurisdiction on the part of the adjudicator to adjudicate on the respondent's claim as there was, in existence, a dispute within the scope of the CIPAA. (para 11)

(2) A perusal of the adjudicator's decision showed that the adjudicator did consider the set-offs raised by the appellant. However, he declined to decide on the merits of the set-offs because of the fact that the set-offs were pending determination in two separate adjudication proceedings. It would be wholly inappropriate for the adjudicator to have adjudicated on the validity of the set-offs. The adjudicator decided correctly and there was no issue of the adjudicator depriving the appellant of its substantive rights. There was no breach of natural justice on the part of the adjudicator. (paras 12 & 18)

***Bahasa Malaysia** Headnotes*

Perayu, kontraktor utama, telah melantik responden sebagai subkontraktor satu projek pembangunan. Kerja-kerja subkontrak berjaya disempurnakan namun terdapat baki tidak berbayar sebanyak RM134,869.25 ('jumlah baki') untuk kerja-kerja yang dijalankan, menyebabkan responden menyampaikan satu tuntutan bayaran kepada perayu untuk jumlah baki tersebut. Perayu membalas dengan menyatakan perayu telah menolak-selesai untuk jumlah RM3,740,790 yang timbul ekoran dua projek ('tolak-selesai'). Responden memulakan prosiding adjudikasi dan menyampaikan notis adjudikasi kepada perayu. Dalam respon adjudikasinya, perayu menghujahkan adjudikator tidak berbidang kuasa mengadjudikasi hal perkara tersebut kerana jumlah yang dituntut responden tidak dipertikai. Adjudikator memerintahkan perayu membayar jumlah baki kepada responden ('keputusan adjudikator'). Responden memfailkan saman pemula ('SP1'), di Mahkamah Tinggi, untuk menguatkuasakan keputusan adjudikator manakala perayu pula memfailkan saman pemula ('SP2') untuk mengetepikannya. Mahkamah Tinggi membenarkan SP1 dan menolak SP2. Maka timbul rayuan-rayuan ini oleh perayu terhadap keputusan Mahkamah Tinggi (i) membenarkan permohonan responden agar menguatkuasakan keputusan adjudikasi; dan (ii) menolak permohonan perayu agar mengetepikan keputusan adjudikator. Isu-isu yang timbul untuk diputuskan adalah (i) sama ada adjudikator bertindak melampaui bidang kuasa beliau dengan mengadjudikasi hal perkara yang tidak dipertikai; dan (ii) sama ada adjudikator melanggar keadilan asasi kerana enggan mempertimbangkan tolak-selesai, yang terjumlah sebagai penafian perayu akan haknya untuk didengar dan mendapat perbicaraan adil.

Diputuskan (menolak rayuan-rayuan)
Oleh Vernon Ong Lam Kiat HMR menyampaikan penghakiman mahkamah:

(1) Fakta jumlah baki tidak dipertikai tidak mungkin berjaya dari awal lagi kerana (i) prosiding dikawal selia oleh Akta Pembayaran dan Adjudikasi Industri Pembinaan 2012 ('APAIP'); (ii) s. 6(1) APAIP memperuntukkan jika perayu, iaitu pihak yang tidak membayar, memperakui tuntutan bayaran, perayu dikehendaki menyampaikan respon bayaran kepada responden, iaitu pihak yang tidak dibayar, bersama-sama keseluruhan jumlah baki yang tidak dipertikai; dan (iii) oleh kerana perayu gagal membalas tuntutan bayaran responden, selaras dengan s. 6(1) APAIP, perayu dianggap mempertikai keseluruhan tuntutan bayaran. Walaupun, jumlah baki tidak dipertikai, fakta tidak disangkal bahawa perayu gagal membayarnya. Kegagalan perayu ini menyebabkan responden mengeluarkan tuntutan bayaran, menuntut jumlah baki tersebut. Walaupun perayu sepatutnya membuat bayaran jumlah baki bersama-sama dengan respon bayarannya, perayu,

A sebaliknya, memegang bayaran tersebut, menyatakan tentang tolak selesai tentang hal-hal perkara yang tiada kaitan dengan adjudikasi. Dalam hal keadaan ini, satu pertikaian dianggap, bawah undang-undang dan berdasarkan fakta, timbul bawah APAIP. Hujahan perayu, bahawa tiada bidang kuasa mengadjudikasi kerana tiada pertikaian, jelas tidak
B boleh dikekalkan. Tiada merit dalam hujahan perayu tentang keperluan bidang kuasa adjudikator untuk mengadjudikasi tuntutan responden kerana wujud satu pertikaian bawah rangkuman APAIP.

(2) Penelitian keputusan adjudikator menunjukkan adjudikator ada mempertimbangkan tolak-selesai yang dibangkitkan oleh perayu. Walau
C bagaimanapun, beliau enggan memutuskan tentang merit tolak-selesai kerana fakta bahawa tolak-selesai ini masih belum diputuskan dalam dua prosiding adjudikasi berasingan. Tidak sesuai sama sekali buat adjudikator mengadjudikasi tentang kesahan tolak-selesai tersebut. Adjudikator telah membuat keputusan betul dan tiada isu tentang
D adjudikator menafikan perayu akan hak-hak substantifnya. Tiada pelanggaran keadilan asasi oleh adjudikator.

Case(s) referred to:

Bauer (Malaysia) Sdn Bhd v. Jack-In Pile (M) Sdn Bhd & Another Appeal [2018] 10 CLJ 293 CA ***(refd)***

E *Beck Peppiatt Ltd v. Norwest Holst Construction Ltd [2003] QBD 316* ***(refd)***

Econet Satellite Services Ltd v. Vee Networks Ltd [2006] EWHC 1664 (Comm) ***(refd)***

Halki Corporation v. Sopex Oils Ltd [1997] EWCA Civ 3062 CA ***(refd)***

Pembenaan Leow Tuck Chui & Sons Sdn Bhd v. Dr Leela's Medical Centre Sdn Bhd [1995] 2 CLJ 345 SC ***(refd)***

Pilon Ltd v. Beyer Group [2010] EWHC 837 ***(refd)***

F *Tenaga Nasional Bhd v. Kamarstone Sdn Bhd [2014] 1 CLJ 207 FC* ***(refd)***

Thermal Energy Construction Ltd v. AE and E Lentjes UK Ltd [2009] EWHC 408 ***(refd)***

View Esteem Sdn Bhd v. Bina Puri Holdings Bhd [2019] 5 CLJ 479 FC ***(refd)***

Witney Town Council v. Beam Construction (Cheltenham) Ltd [2011] EWHC 2332 ***(refd)***

Legislation referred to:

G Construction Industry Payment and Adjudication Act 2012, ss. 5, 6(1), (4), 7(1), 10, 13, 26, 27(1), 35

For the appellant - Dominic Ng Ken Ming & Wajdi Mohamad; M/s Wajdi Mohamad Yusri & Co

For the respondent - Daniel Lau Hsien Yuong; M/s Amrit & Company

H *[Editor's note: For the High Court judgment, please see PWC Corporation Sdn Bhd v. Ireka Engineering & Construction Sdn Bhd & Another Case (No 1) [2018] 1 LNS 162 (affirmed).]*

Reported by Najib Tamby

I

JUDGMENT

Vernon Ong Lam Kiat JCA:

Introduction

[1] Ireka Engineering & Construction Sdn Bhd was the main contractor in a development project in Mont Kiara. Pursuant to a letter of award dated 15 September 2009, Ireka appointed PWC Corporation Sdn Bhd as a subcontractor for the supply and installation of aluminum composite panels under the project. After the completion of the sub-contract works, it was agreed that the final claim due and payable to PWC amounted to RM521,929.67 of which PWC received part payment of RM387,060.42. The balance sum of RM134,869.25 remained unpaid.

[2] PWC served a payment claim on Ireka for the balance sum. In Ireka's payment response, Ireka raised a set-off/cross-claim for RM3,740,790 arising from a liquidated ascertained damages claim in a Sandakan project and an overpayment of RM17,790.45 in a KL Sentral project.

[3] Subsequently, PWC initiated adjudication proceedings under the Construction Industry Payment and Adjudication Act 2012 (CIPAA) when it served a notice of adjudication on Ireka. In its adjudication response, Ireka contended that the adjudicator had no jurisdiction to adjudicate on the matter as the amount claimed by PWC is not disputed.

[4] Notwithstanding the aforesaid, the adjudicator after having considered the cause papers, delivered his decision on 18 May 2017 whereby Ireka was ordered to pay PWC the balance sum within seven days together with adjudicator's fees and expense of RM8,900 and the KLRCA administrative fees and expenses of RM2,469.80.

[5] As no payment was forthcoming, PWC filed an originating summons (OS1) at the High Court to enforce the adjudicator's decision. In response, Ireka filed another originating summons (OS2) to set aside the adjudicator's decision. By consent, both OS1 and OS2 were heard together. The learned judge dismissed Ireka's OS2 to set aside the adjudicator's decision and allowed PWC's OS1 to enforce the adjudicator's decision. Dissatisfied with the outcome, Ireka appealed against both High Court's decisions. Hence, these appeals before us.

[6] Both appeals were heard together. There are two main issues and they are as follows:

(i) Whether the adjudicator had acted in excess of his jurisdiction by adjudicating on a matter which was not in dispute; and

(ii) Whether the adjudicator had breached the rules of natural justice by refusing to consider the cross contract set-offs which is tantamount to depriving Ireka of its right to be heard and to a fair hearing.

Findings Of The High Court

[7] The learned judge found that the adjudicator had the jurisdiction to hear and determine the dispute on the following grounds:

(i) There is a dispute between the parties as Ireka has refused to pay the balance sum to PWC and had instead raised set-off for matters which were totally unrelated to the current adjudication proceedings to avoid their responsibilities to PWC (*Halki Corporation v. Sopex Oils Ltd* [1997] EWCA Civ 3062 CA UK);

(ii) Ireka has failed to fulfil the requirement of making payment of the amount admitted together with the payment response pursuant to s. 6 of CIPAA; and

(iii) Absent the accompaniment of payment with the admission of the payment claim, Ireka is deemed to have disputed the payment claim under sub-s. 6(4) of CIPAA;

[8] The learned judge also found that there was no breach of natural justice when the adjudicator refused to consider the set-off/cross-claim raised in different contracts pending in different adjudications for the following reasons:

(i) Notwithstanding cl. 13.1 of the contract, it would be inappropriate for the adjudicator to decide on the set-off/cross-claim;

(ii) The set-off/cross-claim was essentially outside the scope of the adjudication proceedings because there were two other adjudication proceedings pending before two different adjudicators relating to the Sandakan and KL Sentral projects;

(iii) The adjudicator was correct in holding that he could only decide on a construction contract and not on multiple contracts pursuant to s. 5 of CIPAA;

(iv) An adjudication decision is of interim finality and any adjustments and corrections can be done in the arbitration that has already been commenced and which would yield a final result in that it would supersede the adjudication decision in the three adjudications (s. 13 CIPAA); and

(v) The set-off under cl. 13.1 of the contract relates to a contractual set-off and not an equitable set-off (*Econet Satellite Services Ltd v. Vee Networks Ltd* [2006] EWHC 1664 (Comm)); *Pembenaan Leow Tuck Chui & Sons Sdn Bhd v. Dr Leela's Medical Centre Sdn Bhd* [1995] 2 CLJ 345).

Ireka's Submission

[9] Learned counsel for Ireka took two main points. First, there was no dispute at any point of time as PWC's claim for the balance sum was not disputed (ss. 7(1) and 27(1) CIPAA). Further, the definition of the word

'dispute' should be given its plain and ordinary meaning (*Beck Peppiatt Ltd v. Norwest Holst Construction Ltd* [2003] QBD 316 (TCC); *Witney Town Council v. Beam Construction (Cheltenham) Ltd* [2011] EWHC 2332 (TCC)). As such, it was submitted that the adjudicator had wrongly construed the application of the CIPAA.

[10] Secondly, it was argued that the adjudicator had committed a breach of natural justice on three grounds:

(i) The adjudicator had wrongly applied s. 5 of the CIPAA retrospectively in deciding that Ireka was not entitled to exercise the cross contract set-offs. The contract was entered into before the coming into force of CIPAA. Clause 13.1 should prevail over any provision of CIPAA. The application of s. 5 in the circumstances would have the effect of excluding Ireka's contractual right to set-off and this would amount to a legislation taking away a substantive right of a party. At any rate, CIPAA is only applicable and effective from the date of the legislation and not retrospectively (*Tenaga Nasional Bhd v. Kamarstone Sdn Bhd* [2014] 1 CLJ 207; [2014] 2 MLJ 749 FC; *Bauer (Malaysia) Sdn Bhd v. Jack-In Pile (M) Sdn Bhd & Another Appeal* [2018] 10 CLJ 293. As such, cl. 13.1, which has the effect of enabling Ireka to exercise a contractual right to set-off, should have been given its true effect by the adjudicator;

(ii) By virtue of the retrospective application of CIPAA in determining Ireka's right of set-off, the adjudicator had erroneously misdirected himself into refusing to consider the cross contract set-offs (*Pilon Ltd v. Beyer Group* [2010] EWHC 837 (TCC); *View Esteem Sdn Bhd v. Bina Puri Holdings Bhd* [2017] 1 LNS 1378 FC; *Thermal Energy Construction Ltd v. AE and E Lentjes UK Ltd* [2009] EWHC 408 (TCC)); and

(iii) The adjudicator failed to consider that PWC did not deny Ireka's entitlement to the KL Sentral set-off.

Decision

[11] We will deal with the first issue relating to jurisdiction. In our considered view, the fact that the amount of the balance sum is not disputed is really a non-starter. We say this because firstly, the proceedings in question are governed by the CIPAA. Second, there is a clear provision in sub-s. 6(1) which stipulates that if Ireka (the non-paying party) admits to the payment claim, Ireka is required to serve a payment response to PWC (the unpaid party) together with the whole undisputed balance sum. Third, as Ireka has failed to respond to PWC's payment claim in accordance with sub-s. 6(1), Ireka is deemed to have disputed the entire payment claim: sub-s. 6(4). At any rate, even though the balance sum was not disputed, the undeniable fact is that Ireka failed to pay the same. Ireka's failure prompted PWC to issue the payment claim demanding for the balance sum. Instead of making payment of the balance sum together with their payment response,

Ireka withheld payment citing set-off/cross claims on matters unrelated to the adjudication. Without imputing any ulterior motive on Ireka's actions, this court is bound to hold that in these circumstances, a dispute is deemed in law and in fact to have arisen under the CIPAA. In the light of the aforesaid, it is clearly untenable for Ireka to argue that there is no jurisdiction to adjudicate on the ground that there is no dispute. In our view, the learned judge correctly applied the law to the facts of the case. Accordingly, we find no merit in Ireka's argument on the want of jurisdiction on the part of the adjudicator to adjudicate on PWC's claim as there was in existence a dispute within the scope of the CIPAA.

[12] The second issue relating to breach of natural justice. The general rule is that if the adjudicator fails to consider the issues raised before him because he has taken an erroneously restrictive view of his jurisdiction, for example, failed to consider the defence to the claim or some fundamental element of it, then that may make his decision unenforceable, either on grounds of jurisdiction or breach of natural justice (*Thermal Energy*, *supra*). Ireka's argument is that they were wrongly deprived of their right to set-off under cl. 13.1 by the adjudicator; that in so doing, the adjudicator wrongly applied CIPAA retrospectively to their detriment and prejudice. A perusal of the adjudicator's decision shows that Ireka's argument is misconceived. The adjudicator did consider the two set-offs raised by Ireka. But he declined to decide on the merits of the set-offs because of the fact that the set-offs were pending determination in two separate adjudication proceedings. In our view, the adjudicator decided correctly in the circumstances. There is no issue of the adjudicator depriving Ireka of its substantive rights or of the CIPAA overriding cl. 13.1. Ireka was not deprived its right to set-off under cl. 13.1 because Ireka had commenced separate adjudication proceedings before different adjudicators claiming for the same. In the particular circumstances of this case, it would, in our considered view, be wholly inappropriate for the adjudicator to have adjudicated on the validity of the two set-offs. We agree with the learned judge's findings on this issue. The following authorities cited by Ireka's counsel are distinguishable on the facts and the law.

[13] *Kamarstone* (*supra*) is the Federal Court's affirmation of the settled principle that a statute should not be interpreted retrospectively to impair an existing right or obligation unless such a result was unavoidable by reason of the language used. *Bauer (supra)* relates to whether the CIPAA has affected the substantive rights of the parties to a construction contract made prior to CIPAA. In that case, the construction contract contained a "pay when paid" clause. The question was whether s. 35 of CIPAA takes away the right of the parties to have their payment regime regulated by a "pay when paid" mode. Holding that (i) the CIPAA relates to a substantive right, and (ii) that the CIPAA is prospective in nature, the Court of Appeal held that notwithstanding s. 35, the "pay when paid" clause in the construction

contract remains afoot and valid. In our view, *Bauer* is distinguishable on the facts as there is no question of Ireka's substantive rights being prejudiced or denied. Ireka's substantive rights under the set-offs against PWC were being pursued in separate adjudication proceedings.

[14] In *Pilon* (*supra*) the claimant carried out works for the defendant under a project known as the Ealing project. The work was divided into two separate batches, batches 1-25 and batches 26-62. The claimant issued an interim application for payment in respect of batches 26-62. As the claim was not met, the matter went to adjudication. The adjudicator gave an award in favour of the claimant. As the award was not paid, the claimant sought enforcement at the High Court. The defendant's argument was that they had argued in the adjudication that they have overpaid the claimant in respect of batches 1-25. The adjudicator took the view that his jurisdiction was limited to batches 26-62. The High Court held that the adjudicator's decision to ignore batches 1-25 was wrong. The notice of adjudication gave the adjudicator the jurisdiction to consider what, if any, further sum should be paid by way of interim payments from the defendant to the claimant and that issue, of necessity, involved a consideration of the defendant's defence based on the alleged overpayment on batches 1-25. In that case, the claim and the alleged defence of overpayment related to batches of works done under the Ealing project unlike the set-offs in our case which related to different contracts and are the subject matter of interim claims pending in different adjudication proceedings.

[15] In *View Esteem* (*supra*) one of the questions of law posed to the Federal Court was whether the adjudicator has the right to exclude the defences raised by the appellant. The three defences raised by way of set-off and cross-claims were (i) RM2m advance to the respondent, (ii) defective works and cost of rectification, and (iii) encroachment into adjoining land by the flyover bridge causing damage. The adjudicator justified the exclusion of the defences as they were not set out in the first payment response. However, the three defences were subsequently pleaded in the adjudication response pursuant to s. 10 of CIPAA. In short, the appellant was seeking to include set-offs and cross-claims that were not raised in its payment response under s. 6 of CIPAA. The Federal Court held that an adjudicator must look to the "notice of adjudication" to first determine the jurisdiction of the dispute that is referred to him. On the facts of *View Esteem*, the adjudication response was "a document produced in the adjudication proceedings" under s. 26 of CIPAA and it had carried all the defenses sought to be relied on by the appellant. As such, an adjudicator is not excluded from considering all the defences raised by a respondent in the adjudication response whether found in the payment response under s. 6 of CIPAA or not. The adjudicator's decision was therefore set aside as the adjudicator had acted in breach of natural justice in excluding and refusing to consider the defences raised by the appellant.

[16] *Thermal Energy* (*supra*) is also distinguishable on the facts. In that case, the adjudicator had failed to consider the set-off and counterclaim raised by the defending party. Consequently, the court declined to enforce the adjudicator's decision. In the instant appeal, however, the adjudicator did not refuse to consider the set-offs under the same contract. The set-offs were raised in two different contracts which claims are pending in different adjudication proceedings before different adjudicators.

[17] We have also considered the other issues raised by Ireka's counsel in their written submission and found that they are without merit in law and in fact.

[18] In conclusion, the fact that the claim is not disputed may not necessarily preclude a claimant from initiating adjudication proceedings. It is incumbent upon a respondent who admits to a claim under a payment claim to comply with sub-s. 6(1) of CIPAA by serving a payment response together with the whole amount claimed or any amount as admitted by him. The failure to comply with sub-s. 6(1) is tantamount in law to the respondent disputing the entire payment claim; whereupon the claimant is entitled to initiate adjudication proceedings under the CIPAA by the issuance of a notice of adjudication to the respondent. We do not find that there is any breach of natural justice on the part of the adjudicator. The adjudicator has properly considered the issues raised before him. He had declined to decide on the set-offs as they were the subject matter of two different adjudication proceedings before different adjudicators. On the peculiar facts of this case, there was no question of Ireka being deprived of their right under cl. 13.1 to the set-off.

Conclusion

[19] For the foregoing reasons, we dismissed Ireka's appeals against the High Court's decisions (i) allowing PWC's application to enforce the adjudicator's decision and (ii) dismissing Ireka's application to set aside the adjudicator's decision. We awarded costs of RM5,000 subject to allocator in respect of each appeal to PWC.